

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>DWAYNE GARY,</b>	:	
<i>Plaintiff,</i>	:	<b>CIVIL ACTION</b>
	:	
v.	:	
	:	
<b>C/O BAUDER et al.,</b>	:	<b>No. 16-2861</b>
<i>Defendants.</i>	:	

**ORDER**

**AND NOW**, this 17<sup>th</sup> day of February, 2017, upon consideration of Defendants' Motions to Dismiss (Docket Nos. 5, 6) and Plaintiff's Response thereto (Docket No. 21), it is **hereby ORDERED** that the Motions (Docket Nos. 5, 6) are **GRANTED in part** and **DENIED in part** as follows:

1. All claims against Defendants Bauder, Collins, Zamosky, Zerr, Fuentes, Miller, Smith, and Algarin in their official capacities are **DISMISSED**.
2. Count VII – Retaliation is **DISMISSED in part**, to the extent that Mr. Gary bases his claim of retaliation on verbal harassment.
3. Count VII – Conspiracy is **DISMISSED in part**, such that the only portion of that claim that will remain is a § 1983 conspiracy to file false misconduct charges as retaliation for Mr. Gary's verbal complaints as to Defendant Officers Bauder, Zamosky, and Zerr, and Lt. Collins only.
4. Count VIII – Intentional Infliction of Emotional Distress is **DISMISSED** as to Defendant Montgomery County only.

5. All requests for injunctive relief are **deemed WITHDRAWN**.

BY THE COURT:

S/Gene E.K. Pratter  
GENE E.K. PRATTER  
United States District Judge